

GOVERNOR'S TOURIST TAX ADVISORY COUNCIL

FINAL REPORT

September 12, 2002

INTRODUCTION

On April 15, 2002, Governor Judy Martz proposed significantly changing Montana's tax structure. She proposed to cut income taxes by 10% in a manner that benefits all classes of Montana taxpayers, fixes the perception that we are the highest income tax state, lowers our marginal capital gains rates which currently are the highest in the region, and replaces the lost tax revenue with a tax that significantly targets nonresidents. She also proposed to study whether local governments should have the option of imposing local tourist taxes.

Governor Martz appointed three advisory councils to develop specific recommendations for the three parts of this tax reform proposal - an income tax cut, a tourist tax, and a possible local option tourist tax.

The charge to the Governor's Tourist Tax Advisory Council was:

Recommend items that should be taxed under a statewide tourist tax to ensure tourists pay an appropriate share of the state's tax burden and the other provisions necessary to administer the tourist tax. The tourist tax must raise enough revenue to fund the income tax reduction.

The Council met three times, on June 7, June 25 and August 30. Council members are shown in Appendix A. The Council heard presentations on taxes that tourists pay in other states, sales of items that might be subject to a tourist tax, trends in tourism in Montana, the existing resort taxes, and legal and administrative issues related to a sales tax.

ISSUES CONSIDERED

The Council's deliberations centered on six areas: the structure of the tax, the tax base, seasonality, uniformity, a vendor allowance, and an appropriate name for the tax.

Structure

The Council considered whether the tax should be a tax on sales of categories of goods and services, a tax on the gross receipts of types of businesses, or a combination of the two. The Council found that, from a legal standpoint, the two types of taxes were roughly equivalent. A tax on types of businesses would be easier to administer and might be easier for some types of business to comply with. On the other hand, with a tax on types of businesses, the same item would be taxed when sold by some vendors and not by others.

Tax Base

The Council's primary purpose was to recommend which sales should be taxed. The Council found that there was a general tradeoff between having a broader base, which would allow a lower rate, and having nonresidents pay a larger percentage of the tax. With a tax limited to types of sales where a significant percentage are purchased by nonresidents, a higher rate would be required to raise the needed revenue. With the tax base recommended by the Council, nonresidents would pay about 46% of the tax.

Seasonality

The Council considered whether the tax should be the same year round, should only be imposed during peak travel seasons, or should have a higher rate during peak travel seasons. The Council found that a tax imposed only for part of the year would need to have a significantly higher rate or a significantly broader base to raise the same revenue. The Council also found that Montana has significant numbers of visitors all year. A seasonal tax also would pose challenges for administration and compliance.

Uniformity

The Council considered whether the tax rate should be the same on all taxable sales or higher on some sales and lower on others. The Council was not presented with any arguments for taxing particular sales at either a higher or lower rate.

Vendor Allowance

The Council considered whether vendors should keep a percentage of the tax they collect as compensation for the costs of complying with the tax. The Council also considered how a vendor allowance should be structured. This included the percentage of collections that vendors should retain, whether there should be a cap on the allowance for large vendors and whether there should be a minimum allowance for small vendors.

Tax Name

Council members expressed concern that the name "Tourist Tax" was inappropriate because it sends a message that tourists are being singled out, and may give the inaccurate perception that Montana taxes tourists more than other states. The Council considered other possible names for the tax.

RECOMMENDATIONS

The Council makes the following seven recommendations:

1. In general, the tax should be on sales of categories of goods and services. However, there are types of business where this is impractical, and there should be an option for those businesses to pay the tax on their gross receipts.
2. The tax should be on the following categories of goods and services, as shown in Appendix B:
 - prepared food
 - alcoholic beverages sold by the drink
 - accommodations
 - rental cars
 - rental of recreational equipment
 - guided recreation and sightseeing
 - admissions (except for movies and school sports)
 - camp tuition
 - recreation fees
 - souvenirs
3. The tax rate should be set to collect the amount of revenue needed to offset the income tax cut recommended by the Governor's Income Tax Advisory Council, pay administrative and system costs and provide for a vendor allowance.
4. The tax rate should be the same on all taxable sales.
5. The tax rate should be the same year-round.
6. There should be a vendor allowance. The allowance should be 5% of the vendor's tax collections, with a maximum of \$1,000 per quarterly reporting period. Vendors with collections of less than \$10 in a reporting period should not be required to remit tax for that period.
7. The tax should not be called a tourist tax. The Council did not agree on a name to recommend.

These recommendations were reached by consensus with three exceptions. The council voted on including three items in the tax base. The council voted 6-5 to include souvenir clothing, 9-2 to include other types of souvenirs, and 7-4 to include admissions.

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Appendix A: Council Members

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Appendix B: Tax Revenue

The following table shows estimated sales in 2004 of items that the Council recommends be taxed and estimates of the percent of those sales that are to nonresidents. It shows tax collections at a rate of 3.34%, an estimate of the amount that vendors would retain with the Council's recommended vendor allowance, estimated costs for the Department of Revenue to administer the tax, and net revenue to the state that would be available to offset an income tax cut.

Potential Tourist Tax Net Revenue 2004 (\$ million)		
Category of Sales	Nonresident %	Sales
Prepared Food	30%	\$1,029.756
Drinks	30%	\$217.547
Accommodations	77%	\$356.605
Rental Cars	70%	\$70.857
Rental of Recreational Equipment	39%	\$6.182
Guided Recreation and Sightseeing	80%	\$74.255
Admissions (except movies & school sports)	80%	\$21.646
Recreation Fees	75%	\$65.221
Souvenirs	77%	\$52.675
Total Taxable Sales		\$1,894.745
% to Nonresidents*		46%
Vendors		23,000
Tax @ 3.34% (95% compliance)		\$60.120
- Vendor Allowance		-\$3.086
- Administration Cost		-\$1.385
- System Costs		-\$0.650
Net Revenue Available for Tax Shift		\$54.999